

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA**

THREE RIVERS CONFECTIONS, LLC,	§	
	§	
Plaintiff,	§	Civil Action No. 2:12-cv-1089
	§	
v.	§	Chief Judge Joy Flowers Conti
	§	
CHRISTOPHER M. WARMAN t/d/b/a ART	§	
OF FUDGE and FUDGE CO; and	§	
FUDGETOPIA, LLC,	§	
	§	
Defendants.	§	

PLAINTIFF’S STIPULATION OF DISMISSAL OF REMAINING CLAIMS

Plaintiff, Three Rivers Confections, LLC, respectfully submits this stipulation of dismissal of its remaining claims, and in support shows the following:

I.
BACKGROUND

Three Rivers filed this lawsuit¹ primarily involving certain trademarks that were owned and registered by a third party, Fudgie Wudgie, L.P. that were acquired by Plaintiff. Shortly thereafter, Plaintiff filed its Amended Complaint² setting forth Counts I-XIII against the Warman Parties, including Count XII that sought declaratory judgment regarding the disputed trademarks. Plaintiff later filed its motion for partial summary judgment³ seeking judgment with respect to Count XII. The Court granted Plaintiff’s motion for partial summary judgment:⁴

Pursuant to the Declaratory Judgment Act, the Court hereby finds and declares that Three Rivers Confections, LLC is the lawful and rightful owner of the Fudgie Wudgie Marks as those marks are defined in the amended complaint, that defendant Christopher M. Warman has no property or other rights in the Fudgie Wudgie Marks, and that the May 26, 2012 and August 29, 2012 transfers of the Fudgie Wudgie Marks to Three Rivers Confections, LLC were lawful, valid, and proper.

¹ See Case 2:12-cv-01089-JFC, Document 1.
² See Case 2:12-cv-01089-JFC, Document 14.
³ See Case 2:12-cv-01089-JFC, Documents 62-64, filed 09/05/14.
⁴ See Case 2:12-cv-01089-JFC, Document 99, filed 07/29/15.

II.

STIPULATION OF VOLUNTARY DISMISSAL OF REMAINING CLAIMS

Plaintiff hereby files this stipulation of voluntary dismissal of the remaining claims:

- I. Federal Trademark Infringement
- II. Federal Trademark Counterfeiting
- III. Federal Trade Dress Infringement
- IV. Federal Unfair Competition
- V. Federal Trademark Dilution
- VI. Common Law Trademark Infringement and Unfair Competition
- VII. Trademark Dilution Under State Law
- VIII. False Advertising
- IX. Tortious Interference With Existing Business Relations
- X. Conversion
- XI. Unjust Enrichment
- XIII. Declaratory Judgment Regarding Trade Secrets

Per Fed. R. Civ. Pro. 41(a)(1)(A)(ii) & (a)(1)(B), these claims are dismissed without prejudice.

Dated: September 29, 2015.

Respectfully submitted,

[S] Electronically Signed by Phillip E. Cannatti

Phillip Cannatti, pcannatti@lc-lawfirm.com

*Admitted Pro Hac Vice*⁵

LEHTOLA & CANNATTI, PLLC

Providence Tower East

5001 Spring Valley Road, Suite 400

Dallas, Texas 75244

(972) 383.1515 (Main Telephone)

(972) 383.1519 (Direct Line)

(866) 383.1507 (Facsimile)

Attorney for Plaintiff

Christopher Warman, Individually & o/b/o Art
of Fudge, Fudgeco, and Fudgetopia, LLC⁶

193 Birch Court

Pittsburgh, PA 15237

⁵ See Case 2:12-cv-01089-JFC, Document 95, entered April 21, 2015

⁶ Despite at least six (6) attempts to contact Defendants (pro se) by telephone, text and e-mail regarding signing of the dismissal, no response has been received. Thus, Three Rivers Confection's attorney is compelled to file this Stipulation with the court before the deadline set forth in the court's September 25, 2015 instruction to apprise the court with respect to the status of any and all remaining claims by Tuesday 9/29/2015 at 12:00 PM.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Stipulation of Dismissal of Remaining Claims was electronically filed and has been served this 29th day of September, 2015 via first class U.S. mail, postage prepaid, on the following individual:

Christopher Warman, Individually & o/b/o Art of Fudge,
Fudgeco, and Fudgetopia, LLC
193 Birch Court
Pittsburgh, PA 15237

/s David B. Spear
David B. Spear